

**Knobbe Martens Olson & Bear LLP**

Intellectual Property Law

2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614  
Tel 949-760-0404  
Fax 949-760-9502  
www.kmob.com**RECEIVED**  
APR 2006**USPTO FACSIMILE TRANSMITTAL SHEET**

Page 1 of 1

Docket No.: PRONOV.001BNP

**CUSTOMER NO. 20995**

Applicant : Richard B. Williams  
 App. No. : 10/560,998  
 Filed : December 16, 2005  
 For : SYSTEM AND METHODS FOR NUCLEIC  
 ACID AND POLYPEPTIDE SELECTION  
 Examiner : Unknown  
 Group Art Unit : Unknown

**CERTIFICATE OF FAX TRANSMISSION**

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Fax No. (571) 273-0459 on the date shown below:

April 24, 2006

*Salima A. Merani*  
 Salima A. Merani, J.D., Ph.D.  
 Reg. No. L0236

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Petition to Withdraw Holding of Abandonment and, in the alternative, Petition to Revive Application in 4 pages.

(X) Small entity Fee – \$750. Because this Petition to Revive is a petition in the alternative, Applicant authorizes the USPTO to charge its deposit account (Deposit Account No. 11-1410) only if the USPTO dismisses or denies Applicant's Petition to Withdraw Holding of Abandonment, and considers Applicant's Petition to Revive.

(X) Total pages in transmission: 5

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

*Salima A. Merani*  
 Salima A. Merani, J.D., Ph.D.  
 Registration No. L0236  
 Attorney at Law  
 Customer No. 20,995  
 (949) 760-0404

2547375:pt  
 042406

San Diego  
 619-235-8550

San Francisco  
 415-954-4114

Los Angeles  
 310-551-3450

Riverside  
 951-781-9231

San Luis Obispo  
 805-547-5580

Client Code: PRONOV.001BNP

Page 1

**REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT UNDER MPEP 711.03 AND PETITION TO WITHDRAW HOLDING OF ABANDONMENT 37 C.F.R. 1.181(a), OR, IN THE ALTERNATIVE, PETITION FOR REVIVAL UNDER 37 C.F.R. 1.137(b)**

First named inventor : Richard B. Williams

International (PCT)  
App. No. : PCT/US04/41380

Filing Date : December 10, 2004

Priority Date : December 12, 2003

Title : SYSTEM AND METHODS FOR  
NUCLEIC ACID AND  
POLYPEPTIDE SELECTION

U S. Application No.: 10/560,998

**CERTIFICATE OF FAX TRANSMISSION**

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Fax No. (571) 273-0459 on the date shown below:

April 24, 2006

  
Sahana A. Merani, J.D., Ph.D.  
Reg. No. L0236

Attention: PCT Legal Staff & Examiner Leonard Smith  
Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

The USPTO issued a Notification of Abandonment for the above-captioned application on April 11, 2006. According to the USPTO, Applicant failed to provide the full U.S. Basic National Fee by 30 months.

Applicant hereby requests reconsideration of the USPTO's holding of abandonment under MPEP 711.03 and petitions to withdraw the holding of abandonment under 37 C.F.R. 1.181(a) or, in the alternative, submits a petition for revival under 37CFR 1.137(b).

**REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT  
UNDER MPEP 711.03 AND PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 C.F.R. 1.181(a)**

PCT/US04/41380 was filed on December 10, 2004. PCT/US04/41380 claims priority to several applications, the earliest of which was filed on December 12, 2003. Thus, the priority date for the International Application is December 12, 2003.

Upon entry of PCT/US04/41380 to the United States National Phase on December 16, 2005, Applicant submitted the full US Basic National Fee. Applicant filed a Preliminary Amendment and a Supplemental Declaration for the US application only, which identified an earliest priority date of May 19, 2000.

Applicant respectfully asserts that the 30-month deadline should not be calculated from the priority claim in the U.S. application (10/560,998), but from the International Application (PCT/US04/41380). Thus, the 30-month deadline should be calculated from December 12, 2003.

Support for Applicant's position is set forth in 35 USC 371(b) and the related PCT provisions, as discussed below.

35 USC 371(b) provides that "the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2), or under article 39 (1)(a) of the treaty."

PCT Art. 22(1) provides that "[t]he applicant shall furnish a copy of the international application (unless the communication provided for in Article 20 has already taken place) and a translation thereof (as prescribed), and pay the national fee (if any), to each designated Office not later than at the expiration of 30 months from the priority date."

PCT Art. 2(xi) defines "the priority date" as follows:

(xi) "priority date," for the purpose of computing time limits, means:

(a) where the international application contains a priority claim under Article 8, the filing date of the application whose priority is so claimed;

(b) where the international application contains several priority claims under Article 8, the filing date of the earliest application whose priority is so claimed;

(c) where the international application does not contain any priority claim under Article 8, the international filing date of such application;

Thus, under PCT Art. 2(xi)(b), the "the priority date" from which the 30-month deadline is calculated is **the earliest filing date claimed by the Applicant in the International Application pursuant to Art. 8**, and not in any subsequent National Stage filings. Under Art. 8, Applicant's relevant earliest priority date is December 12, 2003.

Accordingly, the 30-month deadline for filing the U.S. Basic National Fee for entry of PCT/US04/41380 in the United States is June 12, 2006, which is 30 months from the earliest claimed priority date in the International Application (December 12, 2003). Applicant therefore requests reconsideration of the holding of abandonment and hereby petitions to withdraw the holding of abandonment. Applicant respectfully requests that the USPTO grant its petition to withdraw the holding of abandonment 37 C.F.R. 1.181(a).

---

**IF APPLICANT'S PETITION TO WITHDRAW HOLDING OF ABANDONMENT IS NOT GRANTED, APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 C.F.R. 1.137(b)**

As set forth above, the deadline to submit the full US Basic National Fee is June 12, 2006. Because Applicant submitted the appropriate fees and documents on December 16, 2005, the USPTO should grant Applicant's petition to withdraw holding of abandonment.

If the USPTO dismisses or denies Applicant's petition to withdraw holding of abandonment, Applicant hereby submits a petition for revival under 37 CFR 1.137(b). The following are provided to satisfy the requirements under 37 CFR 1.137(b).

1. The reply required to the outstanding Office action or notice, unless previously filed.  
☒ (X) The proper reply (the full US Basic filing fee) has already been submitted on December 16, 2005.
2. Petition fee as set forth in § 1.17(m).  
☒ (X) Small entity Fee – \$750. Because this Petition to Revive is a petition in the alternative, Applicant authorizes the USPTO to charge its deposit account (Deposit Account No. 11-1410) only if the USPTO dismisses or denies Applicant's Petition to Withdraw Holding of Abandonment, and considers Applicant's Petition to Revive.
3. Statement.  
☒ (X) The entire delay in filing the required reply (the full US Basic filing fee) from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.
4. Terminal Disclaimer.

No terminal disclaimer is necessary.

Client Code: PRONOV.001BNP

Page 4

- (X) Please charge any additional fees or credit overpayment to Deposit Account No. 11-1410.
- (X) Return prepaid postcard.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: April 24, 2006

By: 

Salima A. Merani, J.D., Ph.D.

Registration No. L0236

Attorney at Law

Customer No. 20 995

(949) 760-0404

2540142  
042406

\*\*\*\*\*  
\*\*\* RX REPORT \*\*\*  
\*\*\*\*\*

RECEPTION OK

TX/RX NO	5594
RECIPIENT ADDRESS	
DESTINATION ID	
ST. TIME	04/24 19:16
TIME USE	00'47
PGS.	5
RESULT	OK